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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

APRIL G.,

Petitioner,

v.

THE SUPERIOR COURT OF  
LOS ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY DEPARTMENT OF  
CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

No. B175543

(Super. Ct. No. J974990)

ORIGINAL PROCEEDING; petition for an extraordinary writ, Lori Schroeder, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied.

Ernesto Rey for Petitioner.

No appearance for Respondent.

Larry Cory, Assistant County Counsel, and Arezoo Pichvai, Deputy County Counsel, for Real Party in Interest.

Law Offices of Lisa E. Mandel and Gabriela Shapiro for Minors.

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In October 2003, we affirmed the dependency court's finding that April G. was not entitled to reunification services for two of her children, Caesar G. (now almost 12) and Jesse G. (now almost 9). (*Los Angeles County Dept. of Children and Family Services v. April G.* (Oct. 28, 2003, B164926 [nonpub. opn.])<sup>1</sup> While that appeal was pending, April filed a petition in which she asked the dependency court to revisit the issue and to order reunification services for her (Welf. & Inst. Code, § 388).<sup>2</sup> April's petition was granted, and the court ordered the Department of Children and Family Services to provide services for six months. At the conclusion of the six-month period, the dependency court terminated reunification services and set the matter for a section 366.26 hearing. April then filed the petition for extraordinary relief that is now before us, contending (I) she was entitled to services for 12 months and (II) the court should have placed the children in long-term foster care. We reject her claims and deny the petition.

## DISCUSSION

### I.

April contends she was entitled to receive services for 12 months. She is mistaken.

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<sup>1</sup> April, who has a history of mental problems and alcohol abuse, and who is frequently homeless, has been in the dependency system since the late 1980's when her two older children, now adults, were made dependents of the court. Caesar and Jesse, the only children currently before us, have severe mental, emotional, and behavior problems (both are special needs children). April's inability to provide the care required by Caesar and Jesse is detailed in our earlier opinion, and we will not repeat it here.

<sup>2</sup> All section references are to the Welfare and Institutions Code.

First, the issue was waived. At the hearing at which services were terminated, April told the court the issue of reunification was "moot," and that she was "waiving further reunification services," because Caesar and Jesse were living with relatives in Florida, and her only request was for reasonable visitation. She thereby relinquished her right to claim otherwise in this writ petition. (Cf. *In re Richard K.* (1994) 25 Cal.App.4th 580, 588-590; *In re Precious J.* (1996) 42 Cal.App.4th 1463, 1476.)

Second, the period for which reunification services must be provided runs from "the date the child was originally taken from" the parent's physical custody (§ 366.21, subd. (g)(1) [18 months]), or "from the date the child entered foster care" (§ 361.5, subd. (a)(1) [12 months]), not from the date services were first ordered. Because Caesar and Jesse were removed from April's custody in May 2002, and have been in foster care since at least July 2002, the decision to terminate reunification services -- made in May 2004 -- was within the dependency court's discretion and not subject to any statutory minimum.

## II.

April contends the dependency court should not have set a permanent plan hearing and should instead have ordered the boys into long-term foster care. We disagree.

Although the child's best interests may justify a decision to order a child into foster care without setting a section 366.26 hearing, that decision is one entrusted to the dependency court's discretion and it will not be disturbed absent an abuse of discretion. (*In re Jasmon O.* (1994) 8 Cal.4th 398, 415.) It is plain that there was no abuse of discretion here -- as the court explained, it set

the matter for hearing because it considered it necessary to "consider if there is the possibility of a more permanent plan" while keeping long-term foster care as an option. The order was appropriate and is not subject to attack.

### **DISPOSITION**

The petition is denied.

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VOGEL, J.

We concur:

SPENCER, P.J.

ORTEGA, J.